

TRANSMITTAL LETTER		DOCKET NUMBER: P-LJ 5144	
SERIAL NO: 10/057,813	FILING DATE: January 24, 2002	EXAMINER: Unassigned	GROUP ART UNIT: 1623
INVENTION: SURVIVIN-BINDING PROTEINS, ENCODING NUCLEIC ACIDS, AND METHODS OF USE			

TO COMMISSIONER FOR PATENTS

CERTIFICATE OF MAILING BY "EXPRESS MAIL"

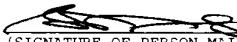
EXPRESS MAIL MAILING LABEL NUMBER: EV 065 745 887 US

DATE OF DEPOSIT: June 7, 2002

I HEREBY CERTIFY THAT THIS PAPER OR FEE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE "EXPRESS MAIL POST OFFICE TO ADDRESSEE" SERVICE UNDER 37 C.F.R. 1.10 ON THE DATE INDICATED ABOVE, AND IS ADDRESSED TO: COMMISSIONER FOR PATENTS WASHINGTON, D.C. 20231.

Sean P. Dewey

(TYPED OR PRINTED NAME OF PERSON MAILING PAPER OR FEE)


(SIGNATURE OF PERSON MAILING PAPER OR FEE)

Transmitted herewith are the following documents in connection with the above-identified application:

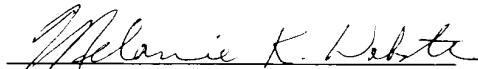
1. Communication in response to the Notice, mailed April 26, 2002, regarding the Department of Energy.
2. Executed Notice regarding the Department of Energy.

Please charge my Deposit Account No. 03-0370 the amount of \$ _____. A duplicate copy of this sheet is enclosed.

The Commissioner is hereby authorized to charge payment of any fees associated with this communication or credit any overpayment to Deposit Account No. 03-0370. A duplicate copy of this sheet is enclosed.

The Commissioner is hereby authorized to charge to Deposit Account No. 03-0370 any fees under 37 CFR 1.17 which may be required under 37 CFR 1.136(a)(3) for an extension of time in any concurrent or future reply requiring a petition for extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,


Melanie K. Webster
Registration No. 45,201
CAMPBELL & FLORES LLP
4370 La Jolla Village Drive
7th Floor
San Diego, California 92122
858-535-9001
USPTO CUSTOMER NO. 23601

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LICENSING & REVIEW

4/16
4/24/02
of
9/25/02

PATENT

Our Docket: P-LJ 5144

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:) Group Art Unit: 1623
Reed and Okada)
Serial No.: 10/057,813)
Filed: January 24, 2002)
For: SURVIVIN-BINDING PROTEINS,)
ENCODING NUCLEIC ACIDS,)
AND METHODS OF USE)
Commissioner for Patents)
Washington, D.C. 20231)
Attention: Licensing and Review *Sean P. Dewey*
(TYPED OR PRINTED NAME OR PERSON MAILING PAPER OR FEE)

Sir:

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(SIGNATURE OF PERSON MAILING PAPER OR FEE)

COMMUNICATION

Responsive to the Notice mailed April 26, 2002, attached herewith is a statement from the inventor regarding the Department of Energy, and a copy of the Notice mailed April 26, 2002. A response to the Notice is due within 45 days. Accordingly, the response to the Notice is due June 10, 2002, and is being timely filed.

A statement from the inventors, John C. Reed and Kazuya Okada are attached herewith. The statement indicates that the inventors made and conceived the invention while employed at The Burnham Institute. The statement also indicates that the invention was not made or conceived in the course of, in connection with, or under terms of any contract with the Department of Energy.

Inventor: Reed and Okada
Serial No.: 10/057,813
Filed: January 24, 2002
Page 2

Applicant believes that the attached statement satisfies the requirements set forth in the Notice. If there are any questions, please call the undersigned agent or Cathryn Campbell.

Respectfully submitted,

June 7, 2002
Date


Melanie K. Webster
Registration No. 45,901
Telephone No.: (858) 535-9001
Facsimile No.: (858) 535-8949

CAMPBELL & FLORES LLP
4370 La Jolla Village Drive
7th Floor
San Diego, California 92122
USPTO CUSTOMER NO. 23601

Document: EXECUTED NOTICE REGARDING
THE DEPARTMENT OF ENERGY
Attorney Docket No: P-LJ 5144

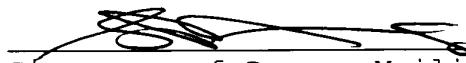
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Sean P. Dewey
Printed Name of Person Mailing Paper or Fee


Signature of Person Mailing Paper or Fee

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UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/057,813 ✓	01/24/02	REED, ET AL.	P-LJ 5144

CAMPBELL & FLORES LLP
4370 LA JOLLA VILLAGE DRIVE
7TH FLOOR
SAN DIEGO, CA 92122

DOCKETED

Resp. Due
6-10-02

EXAMINER

ART UNIT PAPER NUMBER
3

PATENT & TRADEMARK OFFICE

MAILED

APR 26 2002

LICENSING & REVIEW

IF NO RESPONSE TO THIS NOTICE IS RECEIVED WITHIN FORTY-FIVE DAYS, A
FORMAL REQUIREMENT WILL BE ISSUED

The subject matter of this application appears to:

be "useful in the production or utilization of special nuclear material or atomic energy" as recited in 42 U.S.C. 218
(Department of Energy (DOE)).

"have significant utility in the conduct of aeronautical and space activities" as recited in 42 U.S.C. 2457 (National Aeronautics and Space Administration (NASA)).

Accordingly, no patent can issue on this application unless applicant(s) file a statement (under oath or in the form of a declaration as provided by 37 CFR 1.68) setting forth (1) the full facts concerning the circumstances under which the invention was made and conceived and (2) the relationship (if any) of the invention to the performance of any work under any contract or other arrangement with the Agency(ies) noted above. On the reverse side of this form is an example of an acceptable format for this statement. The language appearing in paragraphs III and/or IV of the example may appear if applicant is attempting to establish that no relationship (under item 2 above) exists.

If the invention disclosed in this application was developed under a contract, grant or cooperative agreement between the Agency indicated above and a person, small business or non-profit organization and rights to the invention have been determined by specific reference to 35 U.S.C. 202 in the contract, grant or cooperative agreement, then applicant may not submit the statement described above. Instead, applicant may file a verified statement (under oath or in the form of a declaration, 37 CFR 1.68) setting forth the information required by 35 U.S.C. 202(c)(6).

IF NO STATEMENT HAS BEEN RECEIVED WITHIN FORTY-FIVE DAYS OF THE MAIL DATE INDICATED ABOVE, A FORMAL REQUIREMENT FOR STATEMENT WILL THEN BE ISSUED. NO PROVISION IS MADE FOR EXTENSION OF THE STATUTORY THIRTY-DAY PERIOD FOR RESPONSE TO THE FORMAL REQUIREMENT AND THE PENALTY FOR FAILURE TO FILE AN ACCEPTABLE AND TIMELY STATEMENT IS ABANDONMENT OF THE APPLICATION. THEREFORE, APPLICANTS ARE STRONGLY ENCOURAGED TO SUBMIT A STATEMENT AT THIS TIME IN ORDER TO AVOID THE ISSUANCE OF A FORMAL REQUIREMENT.

IT IS IMPORTANT TO NOTE that the statement must accurately represent the property rights situation of the invention if and when the application is found allowable. Thus, if during prosecution before the examiner, the property rights situation of the invention is so altered or the property rights situation so changed as to impact the accuracy of a statement submitted earlier, a supplemental statement must be filed. Failure to submit such additional information where appropriate may be considered a false representation of material facts and render the patent owner vulnerable to loss of patent rights and other sanctions as set forth in the statutes. The PTO will not review allowed applications for this possible responsibility for complying with the statutes rests with the applicants.

Questions should be directed to Licensing and Review at (703) 306-4191.

The following is an example of an acceptable property rights statement. Statements of this type are, of course, only suitable for situations in which NO Agency funds or other considerations were involved in the making or conception of the invention. While this example is in the form of a declaration, a sworn document is equally acceptable.

I (We) John C. Reed

citizens of United States of America

residing at 17044 El Camino Real, Rancho Santa Fe, California 92067

declare:

That I (we) made and conceived the invention described and claimed in patent application:

Serial Number 10/057,813 filed in the United States of America on January 24, 2002

titled SURVIVIN-BINDING PROTEINS, ENCODING NUCLEIC ACIDS, AND METHODS OF USE

Off
(Check and complete either I or II below)

(Check III and/or IV below as appropriate)

I. (For Inventors Employed by an Organization) That I (we) made and conceived this invention while employed by The Burnham Institute. That the invention is related to the work I am (we are) employed to perform and was made within the scope of my (our) employment duties; That the invention was made during working hours and with the use of facilities, equipment, materials, funds, information and services of The Burnham Institute. Other relevant facts are _____

That to the best of my (our) knowledge and belief:

III. The invention was not made or conceived in the course of, or in connection with, or under the terms of any contract, subcontract or arrangement entered into with or for the benefit of the United States Atomic Energy Commission or its successors: Energy Research and Development Administration or the Department of Energy.

—AND/OR—

IV. The invention was not made (conceived or first actually reduced to practice) under nor is there any relationship of the invention to the performance of any work under any contract of the National Aeronautics and Space Administration.

That to the best of my (our) knowledge and belief (and/or) based upon information provided by _____ of _____

—OR—

II. (For Self-Employed Inventors) That I (we) made and conceived this invention on my (our) own time using only my (our) own facilities, equipment, materials, funds, information and services. Other relevant facts are _____

The undersigned inventor(s) declare further that all statements made herein of his or her (their) own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Inventor's Signature: 

Post Office Address: 17044 El Camino Real, Rancho Santa Fe, California, 92067 U.S.A. P.O. Box 137

Date: 5/23/02

Inventor's Signature: 

Post Office Address: _____

The following is an example of an acceptable property rights statement. Statements of this type are, of course, only suitable for situations in which NO Agency funds or other considerations were involved in the making or conception of the invention. While this example is in the form of a declaration, a sworn document is equally acceptable.

I (We) Kazuya Okada

citizens of Japan

residing at 2842-101, Kaizu, Isahaya City, Japan 854-0063

declare:

That I (we) made and conceived the invention described and claimed in patent application:

Serial Number 10/057,813 filed in the United States of America on January 16, 2002

itled SURVIVIN-BINDING PROTEINS, ENCODING NUCLEIC ACIDS, AND METHODS OF USE

RECEIVED
JUN 11 2002
U.S. PATENT & TRADEMARK OFFICE

(Check and complete either I or II below)

(Check III and/or IV below as appropriate)

I. (For Inventors Employed by an Organization) That I (we) made and conceived this invention while employed by The Burnham Institute. That the invention is related to the work I am (we are) employed to perform and was made within the scope of my (our) employment duties; That the invention was made during working hours and with the use of facilities, equipment, materials, funds, information and services of The Burnham Institute. Other relevant facts are _____

That to the best of my (our) knowledge and belief (and/or) based upon information provided by _____
of _____

—OR—

II. (For Self-Employed Inventors) That I (we) made and conceived this invention on my (our) own time using only my (our) own facilities, equipment, materials, funds, information and services. Other relevant facts are _____

That to the best of my (our) knowledge and belief:

III. The invention was not made or conceived in the course of, or in connection with, or under the terms of any contract, subcontract or arrangement entered into with or for the benefit of the United States Atomic Energy Commission or its successors; Energy Research and Development Administration or the Department of Energy.

—AND/OR—

IV. The invention was not made (conceived or first actually reduced to practice) under nor is there any relationship of the invention to the performance of any work under any contract of the National Aeronautics and Space Administration.

The undersigned inventor(s) declare further that all statements made herein of his or her (their) own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Inventor's Signature: Kazuya Okada

Post Office Address: 2842-101, Kaizu, Isahaya City, Japan 854 0063

Date: (K.O) 6 6/17/2002

Inventor's Signature: _____

Post Office Address: _____

Date: _____